United States District Court, Northern District of Illinois

Name of Assigned Judge		Rube	n Castillo	Sitting Judge if Other	1		
_	or Magistrate Judge	·		than Assigned Judge			
CASE NUMBER 00			C 4543	DATE	10/	18/2000	
CASE For TITLE			est Health System, Inc. of IL vs. Trustmark Insurance Company				
M	OTION:	[In the following box of the motion being	(a) indicate the party filing th presented.]	e motion, e.g., plaintiff, defe	endant, 3rd party plaintiff	and (b) state briefly the natu	
DC	OCKET ENTRY:						
(1)	☐ Filed	motion of [use list	ing in "Motion" box abo	ove.1			
(2)		Brief in support of motion due					
(3)		Answer brief to motion due Reply to answer brief due					
(4)		Ruling/Hearing on set for at					
(5)		Status hearing[held/continued to] [set for/re-set for] on set for at					
(6)		Pretrial conference[held/continued to] [set for/re-set for] on set for at					
(7)		Trial[set for/re-set for] on at					
(8)		[Bench/Jury trial] [Hearing] held/continued to at					
(9)	☐ This c	ase is dismissed [wi	th/without] prejudice and without costs[by/agreement/pyrayent to]				
	□ FR	CP4(m) Gener	al Rule 21	1(a)(1) ☐ FRCP41((a)(2).	J	
(10) [Other docket entry] Enter Memorandum Opinion and Order, case to the Circuit Court of Cook County [5-1] is granted. The Clerk				r. Plaintiff's mot	tion to remand this		
	the Circuit C	Court of Cook Co	unty.	granted. The Cle	rk is directed to r	emand this case to	
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(11)			er attached to the origina	al minute order.]			
	No notices required, advised in open court.		ļ			Document	
	No notices required. Notices mailed by judge's staff.		ļ		number of notices	Number.	
	Notified counsel by telephone.				OCT 1 9 2000		
/	Docketing to mail notices.			-	date docketed	10	
	Mail AO 450 form.		miy-	7	docketing deputy initials		
Copy to judge/magistrate judge.			ED-1 FILED FOR O	DOKETING	g sopony initials		
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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

FOREST HEALTH SYSTEM, INC. OF IL) d/b/a FOREST HOSPITAL,)	No. 00 C 4543 DUCKETED OCT 1 9 2000		
Plaintiff,)			
v.)	Judge Ruben Castillo		
TRUSTMARK INSURANCE COMPANY,)	(Removed from the Circuit Court of Cook County, IL No. 00 L 7065)		
Defendant.)			

MEMORANDUM ORDER

Forest Health System, Inc. ("Forest Health"), sponsor of a self-funded employee benefit plan, filed this action against its plan administrator Trustmark Insurance Company ("Trustmark") in the Circuit Court of Cook County, Illinois. Forest Health alleges that Trustmark, which also had issued stop loss insurance to Forest Health, breached its contractual obligations when it intentionally delayed processing insurance claims, preventing Forest Health from recovering under the stop loss insurance contract. Defendant removed the state action to this Court pursuant to 28 U.S.C. § 1441, 28 U.S.C. § 1331, and 29 U.S.C. § 1001. Currently before the Court is Forest Health's motion to remand this matter to the Circuit Court of Cook County. For the reasons set forth below, Forest Health's Motion to Remand is granted.

This Court's determination of jurisdiction on removal begins with 28 U.S.C. § 1441(a), which provides that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States " 28 U.S.C. § 1441(a). The propriety of removal turns on



whether the Court has federal question jurisdiction under 28 U.S.C. § 1331, which gives district courts original jurisdiction over "all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. The party seeking removal bears the burden of establishing federal jurisdiction. *See Doe v. Allied-Signal, Inc.*, 985 F.2d 908, 911 (7th Cir. 1993). If there is any doubt about the propriety of removal, the case should be remanded to state court. *See id.*

Ordinarily, the well-pleaded complaint rule governs the determination of whether federal jurisdiction exists. See Rice v. Panchal, 65 F.3d 637, 639 (7th Cir. 1995) (a cause of action only arises under federal law when the plaintiff's well pleaded complaint raises issues of federal law). The doctrine of complete preemption, which applies in the context of the Employee Retirement Income Security Act of 1974 ("ERISA"), however, acts as an exception to the well-pleaded complaint rule. See id. Section 502(a), 29 U.S.C. § 1132, ERISA's civil enforcement provision, "provides the basis for complete preemption" under ERISA. Id. Thus, state law claims falling within the scope of § 502(a) are completely preempted. See Speciale v. Seybold, 147 F.3d 612, 615 (7th Cir. 1998). Such state law claims are recharacterized as claims arising under federal law, and thus confer federal question jurisdiction for removal purposes. See Rice, 65 F.3d at 640.

Trustmark, the party seeking removal in this case, has failed to establish that Forest Health's claims are completely preempted under § 502(a), as required for federal jurisdiction. Instead, Trustmark erroneously argues that this Court has jurisdiction because Forest Health's claims are preempted by § 514(a), 29 U.S.C. § 1144, ERISA's conflict preemption provision. Unlike § 502(a), § 514(a) does not provide the basis for complete preemption under ERISA. See Rice, 65 F.3d at 639-640. Rather, § 514(a) serves only as a defense to a state law action, and

thus does not confer federal question jurisdiction. See id. at 640 (holding that complete

preemption under § 502(a) creates federal question jurisdiction whereas conflict preemption

under § 514(a) does not); see also Rosen v. Washington Nat'l Ins. Co., No. 97 C 5894, 1997 WL

638484, at *4 (N.D. Ill. Oct. 7, 1997) ("Preemption premised solely on section 514(a) of ERISA

does not permit removal.").

Trustmark has not demonstrated that Forest Health's claims are completely preempted

pursuant to § 502(a). Therefore, federal jurisdiction has not been established. Accordingly, this

Court finds that, based on the state court proceedings to date, "it appears that the district court

lacks subject matter jurisdiction." 28 U.S.C. § 1447(c). Therefore, this Court grants Forest

Health's Motion to Remand, (R. 5-1), and remands this matter back to the Circuit Court of Cook

County, Illinois. Trustmark will remain free to file an amended motion for removal whenever it

has a good faith belief that it can meet its burden of establishing federal jurisdiction for this

dispute.

Entered:

Judge Ruben Castillo

United States District Court

Dated: October 17, 2000

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